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FISCAL IMPACT STATEMENT

LS 6807

BILL NUMBER: SB 319

NOTE PREPARED: Dec 30, 2010

BILL AMENDED:

SUBJECT: Firearms on School Property.

FIRST AUTHOR: Sen. Banks

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Reduction in Criminal Penalty for Possession of Firearm on School Property-* The bill makes unlawful possession of a firearm: (1) in or on school property; (2) in or on property that is being used by a school for a school function; or (3) on a school bus; a Class A misdemeanor instead of a Class D felony.

Firearms on School Property- The bill provides that the law concerning unlawful possession of a firearm in or on school property or in or on property that is being used by a school for a school function does not apply to a person who may legally possess a firearm, possesses a valid license to carry a handgun, is not a student enrolled in the school, and stores a firearm: (1) in a motor vehicle that is parked in or on school property or parked in or on property that is being used by the school for a school function; and (2) that is locked in the trunk of the motor vehicle, kept in the glove compartment of the locked motor vehicle, or stored out of plain sight in the locked motor vehicle.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Reduction in Criminal Penalty for Possession of Firearm on School Property-* This provision would potentially reduce the costs to the state if an offender is convicted of a misdemeanor rather than a felony. (Offenders convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails.)

A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.)

Firearms on School Property- The current penalty for possession of a firearm on school property is a Class D felony. There could be a slight reduction in the number of new criminal cases filed and persons convicted of illegal possession with the exemptions provided under the bill. There is no known data to indicate potentially how many persons would store a firearm as described under the bill in their vehicle while on school property.

Background Information- The following table illustrates Department of Correction (DOC) commitments in 2009 for carrying or possessing a handgun without a license. Commitment to a DOC facility occurs from a felony conviction. The number of convicted persons committed to a DOC facility for possession of a handgun on school property is unknown.

DOC Commitments for Carrying or Possessing a Handgun Without a License (CY 2009)			
Number as a Primary Violation		Number as Secondary Violation	
Carrying	Possession	Carrying	Possession
170	1	29	33

The average sentence length for the above handgun offender commitments is approximately three years.

Explanation of State Revenues: *Reduction in Criminal Penalty for Possession of Firearm on School Property-* Reduction of the penalty for unlawful possession of a firearm on school property from a Class D felony to a Class A misdemeanor could reduce the amount of money received by the state General Fund and Common School Fund from fines. The maximum fine for a Class D felony is \$10,000. For a Class A misdemeanor, the maximum fine is \$5,000. Criminal fines are deposited in the Common School Fund.

When a case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered is deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Firearms on School Property- As stated above under *Explanation of State Expenditures*, if slightly fewer cases are filed and convictions secured, fewer penalty fines would be collected.

Explanation of Local Expenditures: *Reduction in Criminal Penalty for Possession of Firearm on School Property-* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. If more convicted persons are incarcerated in local instead of state facilities, county jails would see an increase in the number of inmates they process in a given year.

Explanation of Local Revenues: *Reduction in Criminal Penalty for Possession of Firearm on School Property-* When court actions occur and a guilty verdict is entered, local governments receive revenue from the following sources: The county general fund receives 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town

court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, county jails.

Information Sources: Department of Correction, 2009 offender commitment data; Indiana State Police, *Annual Report 2005-2009*; *Indiana Handbook of Taxes, Revenues, and Appropriations*.

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